



# 2002 Income Tax Special Instructions for married couples

*Filing the Utah income tax return when one spouse is a full-year resident and the other spouse is a nonresident*

### Utah State Tax Commission

210 North 1950 West  
Salt Lake City, Utah 84134  
(801) 297-6299  
1-800-662-4335  
[www.tax.utah.gov](http://www.tax.utah.gov)



*If you need an accommodation under the Americans with Disabilities Act, contact the Tax Commission at (801) 297-3811, or TDD (801) 297-2020. Please allow three working days for a response.*

## General Information

**Special Instructions** are a method of filing separate Utah returns when a husband and wife would otherwise be required to file a joint return.

Nonresidents who are stationed in Utah solely due to military orders are not subject to tax on their military pay in Utah. However, nonresident military personnel or members of their family who have earned income from Utah sources, other than active military service pay, are required to file a nonresident Utah tax return and pay any taxes due.

## Who Can Use Special Instructions?

A husband and wife qualify to file Utah returns using Special Instructions when one spouse is a full-year Utah resident and the other spouse is a nonresident.

**If either spouse is a part-year resident, the couple cannot file using Special Instructions. Couples who do not qualify to use Special Instructions must claim the same filing status on both the federal and Utah returns.**

## Can Military Personnel Use Special Instructions?

A military person and his or her spouse may use Special Instructions if one spouse is a full-year Utah resident and the other spouse is a nonresident.

A nonmilitary spouse who was a Utah resident before marrying a military person or who came to Utah to live without the military person may use Special Instructions, if he or she is a full-year Utah resident.

### Example 1:

Doug moved to Utah in May of 2002. His wife, Marlene, does not plan to move to Utah. Doug and Marlene do not qualify for Special Instructions until tax year 2003 because Doug is only a part-year resident in 2002. They must use the same filing status on both their federal and Utah tax returns. They will qualify for Special Instructions in 2003, if Doug is a full-year Utah resident and Marlene remains a nonresident during calendar year 2003.

### Example 3:

Fred and Alice moved to Utah in 2002 due to military orders. Fred is in the military and Nevada is his home of record. Alice has income from Utah sources. Fred and Alice do not qualify to use Special Instructions because Alice retains the Nevada domicile of her military spouse, unless Fred changes his home of record to Utah. If they file a joint federal return for 2002, they must file a joint Utah return.

### Example 2:

Sally moved to Utah in 2001. Her husband, Brian, did not move to Utah until June of 2002. This couple does not qualify to use Special Instructions for calendar year 2002 because Sally is a full-year resident and Brian is a part-year resident.

## How do I File With Special Instructions?

Couples who qualify to use Special Instructions may file a federal return as married filing joint and file Utah returns as married filing separate.

Both spouses must compute Utah taxable income, as if federal income had been computed separately, as follows:

- 1) Determine the total federal adjusted gross income (FAGI) for each spouse. Divide adjustments that apply to both spouses in proportion to their respective incomes. Include documentation of the computations with the return.

## Are Military Personnel and Their Families Subject to Utah Income Tax?

The spouse of a person in active military service is generally considered to have that person's domicile and is subject to the same income tax laws and rules that apply to the military person.

- 2) Allocate a portion of each deduction or add-back item to each spouse. Determine this allocation as follows:
  - a) Divide the FAGI of each spouse by the FAGI shown on the federal return. Round the resulting percentage to four decimal places.
  - b) Multiply each deduction and add-back item by the percentage calculated in part a (above).  
The allocable deductions and add-back items are:
    - State income tax deducted as an itemized deduction on federal Schedule A.
    - Other items that must be added back to FAGI on the state return.
    - Itemized or standard deductions.
    - State exemptions for dependents.
    - One-half of the federal tax liability.
    - State income tax refund included on the federal return.
    - Other state deductions.

The only item on the Utah return that does not have to be allocated between the spouses' separate state returns is his or her personal exemption.

**Example:** If the husband has 80% of the FAGI, he may deduct or add-back 80% of each item listed above, but he may deduct 100% of his personal exemption. The wife would deduct or add-back 20% of each item listed above and deduct 100% of her personal deduction.

- 3) The amounts claimed for Line 5 (State income tax deducted as an itemized deduction), Line 8 (Standard or itemized deduction) and Line 9 (Personal exemptions) will be limited if either spouse's FAGI exceeds **\$103,000** when using the special instructions. If either spouse's FAGI exceeds \$103,000, they must complete the applicable federal forms for use in completing the Utah Individual Income Tax forms.
- 4) Complete the Utah return.
  - a) Resident spouse – Use the Utah taxable income to calculate the income tax.
  - b) Nonresident spouse – Use the Utah taxable income to calculate the income tax. Complete form TC-40A, part 3 to determine the income from Utah sources. Follow the instructions on the line "For Non or Part-year Residents Only" to calculate the Utah tax. A nonresident spouse with no Utah source income is not required to file a Utah return.



## Example for Tax Year 2002:

Becky was a full-year resident of Utah before marrying Terry in 2002. Terry is in the military and he is stationed in Utah. Terry's home of record is Wyoming. They qualify to use the Special Instructions because Becky was a Utah resident before marrying Terry. The combined federal adjusted gross income reported on their 2002 joint federal return is \$75,000.

Becky's separate gross income is \$30,000. Dividing \$30,000 by \$75,000 equals .40 or 40%. Use this percentage to allocate the different items on Becky's separate Utah resident return, as follows:

Becky (Utah Resident)	Joint Federal Return From 1040	Joint State Return Form TC-40	Percentage Allocation	Separate State Return Form TC-40
Federal adjusted gross income	\$75,000	\$75,000		\$30,000
State income tax deducted as itemized deductions	3,710	3,710	0.40	1,484
Other deductions to income	0	0	0.40	0
Standard or itemized deductions	(10,000)	(10,000)	0.40	(4,000)
Personal exemption (state is 75% of federal)	(3,000)	(2,250)	1.00	(2,250) *
Spouse exemption (state is 75% of federal)	(3,000)	(2,250)	0.00	(0)
Dependents exemptions (state is 75% of federal)	(3,000)	(2,250)	0.40	(900) **
Federal tax (liability on federal, deduction of state)	(10,259)	(5,130)	0.40	(2,052) ***
State refund from line 10 of federal from 1040	(25)	(25)	0.40	(10)
Other deductions	0	0.40	0	
Utah Taxable Income				\$22,272
Utah tax as calculated on line 16 of Utah return (Use the tax rate for married filing separately)				<b>\$1,438</b>

Terry earned \$45,000 during 2002, but \$3,000 of that earned income was from a Utah source not related to military service pay. Terry is required to file a Utah tax return and pay taxes due. Dividing \$45,000 by \$75,000 equals .60 or 60%. Use this percentage to allocate the different items on Terry's separate Utah return, as follows:

**Terry (Nonresident)**

	Joint Federal Return Form 1040	Joint State Return From TC-40	Percentage Allocation	Separate State Return Form TC-40
Federal adjusted gross income	\$75,000	\$75,000		\$45,000
State income tax deducted as itemized deductions	3,710	3,710	0.60	2,226
Other additions to income	0	0	0.60	0
Standard or itemized deductions	(10,000)	(10,000)	0.60	(6,000)
Personal exemption (state is 75% of federal)	(3,000)	(2,250)	1.00	(2,250) *
Spouse exemption (state is 75% of federal)	(3,000)	(2,250)	0.00	(0)
Dependents exemption (state is 75% of federal)	(3,000)	(2,250)	0.60	(1,350) **
Federal tax (liability on federal, deduction on state)	(10,259)	(5,130)	0.60	(3,078) ***
State refund from line 10 of federal return 1040	(25)	(25)	0.60	(15)
Other deductions	0	0	0.60	0
Utah taxable income				\$34,533
(Use the tax rate for married filing separately)				<b>\$2,296</b>
Utah tax liability percentage as calculated on line 17 box c				0.0667 ****
<b>Utah Tax line 17 (\$2,296 multiplied by .0667)</b>				<b>\$153</b>

\* State exemption for tax year 2002 is \$2,250 (federal exemption \$3,000 multiplied by .75).

\*\* State exemption \$2,250 multiplied by the allocation percentage.

\*\*\* The federal tax deduction is 1/2 of the federal tax multiplied by the allocation percentage.  
The federal tax \$10,529 consists of lines 55 and 58 from federal form 1040.

\*\*\*\* Line 17 box "a" \$3,000 divided by box "b" \$45,000

**Couples who qualify to use Special Instructions may use a different method of allocating deductions or add-back items than outlined in this publication, if that method more accurately reflects each spouse's separate state taxable income. Include documentation of your computations with your return.**